Court No. 3

Criminal Misc.Application No. 49 of 2003

Meenu and others ……Petitioners.

Versus

State of Uttaranchal and others ….Respondents.

Hon'ble Irshad Hussain, J.

Heard Sri Vivek Shukla learned counsels for the petitioners and the learned A.G.A. and perused the record of the petition.

By means of this petition the petitioners have prayed for quashing of the summoning order dated 17-4-2001 in criminal complaint case No. 2898/ 1998 and also the judgment and order of the IInd Additional Sessions Judge Haridwar dated 17-8-2002 whereby the revision preferred by the petitioners against the summoning order was dismissed on merit.

From the perusal of the petition itself and the copy of the complaint on the record it is evident that the allegations against the petitioners and others were not inherently improbable. The victims have also sustained injuries in that occurrence. The High Court under the powers under section 482 of the Criminal Procedure Code will not embark upon in the inquiry as to whether evidence of the prosecution is credible or not or whether on the basis of evidence the charge against the accused will be established or not. At this stage it has to be seen whether the allegations as contained in the complaint are prima facie credible or not and whether on the basis of these allegations if they remain uncontroverted a finding of guilt can be recorded against the wrong-doer. Considering that the victims have sustained injuries in the occurrence, even the uncontroverted allegations of the F.I.R. prima facie make out a cognizable case against the petitioners and others and therefore the learned Magistrate was fully justified in passing the summoning order dated 17-4-2001. In a situation like this the learned Sessions Judge has also no alternative but to find favour with the

view taken by the learned Magistrate and the order of dismissal of the revision also does not suffer from vice of any impropriety.

In view of the above there is no merit in this petition and the same is hereby dismissed.

Dated 2.9.2003 **(Irshad Hussain, J.)**

ISB